



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

SB2782

Introduced 1/20/2006, by Sen. Debbie DeFrancesco Halvorson

SYNOPSIS AS INTRODUCED:

210 ILCS 30/6
740 ILCS 110/11

from Ch. 111 1/2, par. 4166
from Ch. 91 1/2, par. 811

Amends the Abused and Neglected Long Term Care Facility Residents Reporting Act; provides for disclosure of investigative reports to the Department of Financial and Professional Regulation and for the disclosure of investigative reports in connection with individuals receiving services at community agencies. Amends the Mental Health and Developmental Disabilities Confidentiality Act; provides for the disclosure of mental health or developmental disabilities service records and communications in accordance with the Abused and Neglected Long Term Care Facility Residents Reporting Act and the Abuse of Adults with Disabilities Intervention Act. Effective immediately.

LRB094 15527 DRJ 50726 b

1 AN ACT concerning health.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Abused and Neglected Long Term Care Facility
5 Residents Reporting Act is amended by changing Section 6 as
6 follows:

7 (210 ILCS 30/6) (from Ch. 111 1/2, par. 4166)

8 Sec. 6. All reports of suspected abuse or neglect made
9 under this Act shall be made immediately by telephone to the
10 Department's central register established under Section 14 on
11 the single, State-wide, toll-free telephone number established
12 under Section 13, or in person or by telephone through the
13 nearest Department office. No long term care facility
14 administrator, agent or employee, or any other person, shall
15 screen reports or otherwise withhold any reports from the
16 Department, and no long term care facility, department of State
17 government, or other agency shall establish any rules,
18 criteria, standards or guidelines to the contrary. Every long
19 term care facility, department of State government and other
20 agency whose employees are required to make or cause to be made
21 reports under Section 4 shall notify its employees of the
22 provisions of that Section and of this Section, and provide to
23 the Department documentation that such notification has been
24 given. The Department of Human Services shall train all of its
25 mental health and developmental disabilities employees in the
26 detection and reporting of suspected abuse and neglect of
27 residents. Reports made to the central register through the
28 State-wide, toll-free telephone number shall be transmitted to
29 appropriate Department offices and municipal health
30 departments that have responsibility for licensing long term
31 care facilities under the Nursing Home Care Act. All reports
32 received through offices of the Department shall be forwarded

1 to the central register, in a manner and form described by the
2 Department. The Department shall be capable of receiving
3 reports of suspected abuse and neglect 24 hours a day, 7 days a
4 week. Reports shall also be made in writing deposited in the
5 U.S. mail, postage prepaid, within 24 hours after having
6 reasonable cause to believe that the condition of the resident
7 resulted from abuse or neglect. Such reports may in addition be
8 made to the local law enforcement agency in the same manner.
9 However, in the event a report is made to the local law
10 enforcement agency, the reporter also shall immediately so
11 inform the Department. The Department shall initiate an
12 investigation of each report of resident abuse and neglect
13 under this Act, whether oral or written, as provided for in
14 Section 3-702 of the Nursing Home Care Act, except that reports
15 of abuse which indicate that a resident's life or safety is in
16 imminent danger shall be investigated within 24 hours of such
17 report. The Department may delegate to law enforcement
18 officials or other public agencies the duty to perform such
19 investigation.

20 With respect to investigations of reports of suspected
21 abuse or neglect of residents of mental health and
22 developmental disabilities institutions under the jurisdiction
23 of the Department of Human Services, the Department shall
24 transmit copies of such reports to the Department of State
25 Police, the Department of Human Services, and the Inspector
26 General appointed under Section 6.2. If the Department receives
27 a report of suspected abuse or neglect of a recipient of
28 services as defined in Section 1-123 of the Mental Health and
29 Developmental Disabilities Code, the Department shall transmit
30 copies of such report to the Inspector General and the
31 Directors of the Guardianship and Advocacy Commission and the
32 agency designated by the Governor pursuant to the Protection
33 and Advocacy for Developmentally Disabled Persons Act. When
34 requested by the Director of the Guardianship and Advocacy
35 Commission, ~~or~~ the agency designated by the Governor pursuant
36 to the Protection and Advocacy for Developmentally Disabled

1 Persons Act, or the Department of Financial and Professional
2 Regulation, the Department, the Department of Human Services
3 and the Department of State Police shall make available a copy
4 of the final investigative report regarding investigations
5 conducted by their respective agencies on incidents of
6 suspected abuse or neglect of residents of mental health and
7 developmental disabilities institutions or individuals
8 receiving services at community agencies under the
9 jurisdiction of the Department of Human Services. Such final
10 investigative report shall not contain witness statements,
11 investigation notes, draft summaries, results of lie detector
12 tests, investigative files or other raw data which was used to
13 compile the final investigative report. Specifically, the
14 final investigative report of the Department of State Police
15 shall mean the Director's final transmittal letter. The
16 Department of Human Services shall also make available a copy
17 of the results of disciplinary proceedings of employees
18 involved in incidents of abuse or neglect to the Directors. All
19 identifiable information in reports provided shall not be
20 further disclosed except as provided by the Mental Health and
21 Developmental Disabilities Confidentiality Act. Nothing in
22 this Section is intended to limit or construe the power or
23 authority granted to the agency designated by the Governor
24 pursuant to the Protection and Advocacy for Developmentally
25 Disabled Persons Act, pursuant to any other State or federal
26 statute.

27 With respect to investigations of reported resident abuse
28 or neglect, the Department shall effect with appropriate law
29 enforcement agencies formal agreements concerning methods and
30 procedures for the conduct of investigations into the criminal
31 histories of any administrator, staff assistant or employee of
32 the nursing home or other person responsible for the residents
33 care, as well as for other residents in the nursing home who
34 may be in a position to abuse, neglect or exploit the patient.
35 Pursuant to the formal agreements entered into with appropriate
36 law enforcement agencies, the Department may request

1 information with respect to whether the person or persons set
2 forth in this paragraph have ever been charged with a crime and
3 if so, the disposition of those charges. Unless the criminal
4 histories of the subjects involved crimes of violence or
5 resident abuse or neglect, the Department shall be entitled
6 only to information limited in scope to charges and their
7 dispositions. In cases where prior crimes of violence or
8 resident abuse or neglect are involved, a more detailed report
9 can be made available to authorized representatives of the
10 Department, pursuant to the agreements entered into with
11 appropriate law enforcement agencies. Any criminal charges and
12 their disposition information obtained by the Department shall
13 be confidential and may not be transmitted outside the
14 Department, except as required herein, to authorized
15 representatives or delegates of the Department, and may not be
16 transmitted to anyone within the Department who is not duly
17 authorized to handle resident abuse or neglect investigations.

18 The Department shall effect formal agreements with
19 appropriate law enforcement agencies in the various counties
20 and communities to encourage cooperation and coordination in
21 the handling of resident abuse or neglect cases pursuant to
22 this Act. The Department shall adopt and implement methods and
23 procedures to promote statewide uniformity in the handling of
24 reports of abuse and neglect under this Act, and those methods
25 and procedures shall be adhered to by personnel of the
26 Department involved in such investigations and reporting. The
27 Department shall also make information required by this Act
28 available to authorized personnel within the Department, as
29 well as its authorized representatives.

30 The Department shall keep a continuing record of all
31 reports made pursuant to this Act, including indications of the
32 final determination of any investigation and the final
33 disposition of all reports.

34 The Department shall report annually to the General
35 Assembly on the incidence of abuse and neglect of long term
36 care facility residents, with special attention to residents

1 who are mentally disabled. The report shall include but not be
2 limited to data on the number and source of reports of
3 suspected abuse or neglect filed under this Act, the nature of
4 any injuries to residents, the final determination of
5 investigations, the type and number of cases where abuse or
6 neglect is determined to exist, and the final disposition of
7 cases.

8 (Source: P.A. 89-507, eff. 7-1-97.)

9 Section 10. The Mental Health and Developmental
10 Disabilities Confidentiality Act is amended by changing
11 Section 11 as follows:

12 (740 ILCS 110/11) (from Ch. 91 1/2, par. 811)

13 Sec. 11. Disclosure of records and communications. Records
14 and communications may be disclosed:

15 (i) in accordance with the provisions of the Abused and
16 Neglected Child Reporting Act;

17 (ii) when, and to the extent, a therapist, in his or
18 her sole discretion, determines that disclosure is
19 necessary to initiate or continue civil commitment
20 proceedings under the laws of this State or to otherwise
21 protect the recipient or other person against a clear,
22 imminent risk of serious physical or mental injury or
23 disease or death being inflicted upon the recipient or by
24 the recipient on himself or another;

25 (iii) when, and to the extent disclosure is, in the
26 sole discretion of the therapist, necessary to the
27 provision of emergency medical care to a recipient who is
28 unable to assert or waive his or her rights hereunder;

29 (iv) when disclosure is necessary to collect sums or
30 receive third party payment representing charges for
31 mental health or developmental disabilities services
32 provided by a therapist or agency to a recipient under
33 Chapter V of the Mental Health and Developmental
34 Disabilities Code or to transfer debts under the

1 Uncollected State Claims Act; however, disclosure shall be
2 limited to information needed to pursue collection, and the
3 information so disclosed shall not be used for any other
4 purposes nor shall it be redisclosed except in connection
5 with collection activities;

6 (v) when requested by a family member, the Department
7 of Human Services may assist in the location of the
8 interment site of a deceased recipient who is interred in a
9 cemetery established under Section 100-26 of the Mental
10 Health and Developmental Disabilities Administrative Act;

11 (vi) in judicial proceedings under Article VIII of
12 Chapter III and Article V of Chapter IV of the Mental
13 Health and Developmental Disabilities Code and proceedings
14 and investigations preliminary thereto, to the State's
15 Attorney for the county or residence of a person who is the
16 subject of such proceedings, or in which the person is
17 found, or in which the facility is located, to the attorney
18 representing the recipient in the judicial proceedings, to
19 any person or agency providing mental health services that
20 are the subject of the proceedings and to that person's or
21 agency's attorney, to any court personnel, including but
22 not limited to judges and circuit court clerks, and to a
23 guardian ad litem if one has been appointed by the court,
24 provided that the information so disclosed shall not be
25 utilized for any other purpose nor be redisclosed except in
26 connection with the proceedings or investigations;

27 (vii) when, and to the extent disclosure is necessary
28 to comply with the requirements of the Census Bureau in
29 taking the federal Decennial Census;

30 (viii) when, and to the extent, in the therapist's sole
31 discretion, disclosure is necessary to warn or protect a
32 specific individual against whom a recipient has made a
33 specific threat of violence where there exists a
34 therapist-recipient relationship or a special
35 recipient-individual relationship;

36 (ix) in accordance with the Sex Offender Registration

1 Act; ~~and~~

2 (x) in accordance with the Rights of Crime Victims and
3 Witnesses Act;

4 (xi) in accordance with Section 6 of the Abused and
5 Neglected Long Term Care Facility Residents Reporting Act;
6 and

7 (xii) in accordance with Section 55 of the Abuse of
8 Adults with Disabilities Intervention Act.

9 Any person, institution, or agency, under this Act,
10 participating in good faith in the making of a report under the
11 Abused and Neglected Child Reporting Act or in the disclosure
12 of records and communications under this Section, shall have
13 immunity from any liability, civil, criminal or otherwise, that
14 might result by reason of such action. For the purpose of any
15 proceeding, civil or criminal, arising out of a report or
16 disclosure under this Section, the good faith of any person,
17 institution, or agency so reporting or disclosing shall be
18 presumed.

19 (Source: P.A. 90-423, eff. 8-15-97; 90-538, eff. 12-1-97;
20 90-655, eff. 7-30-98; 91-357, eff. 7-29-99.)

21 Section 99. Effective date. This Act takes effect upon
22 becoming law.